

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**





# 75-1104

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Pg 5

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IN THE  
**United States Court of Appeals**  
FOR THE SECOND CIRCUIT

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Docket No. 75-1104

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UNITED STATES OF AMERICA  
APPELLEE

vs.

WALTER B. FREDERICK, JR.

and

REUBEN McCrARY  
APPELLANTS

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ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF CONNECTICUT

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APPENDIX FOR THE APPELLANTS

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ZACCAGNINO, LINARDOS & SABLONE

104 Asylum Street  
Hartford, Ct.  
Attorneys for  
REUBEN McCrARY

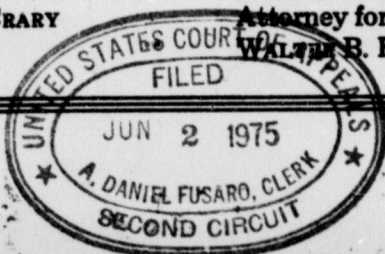
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WALTER B. FREDERICK, JR.



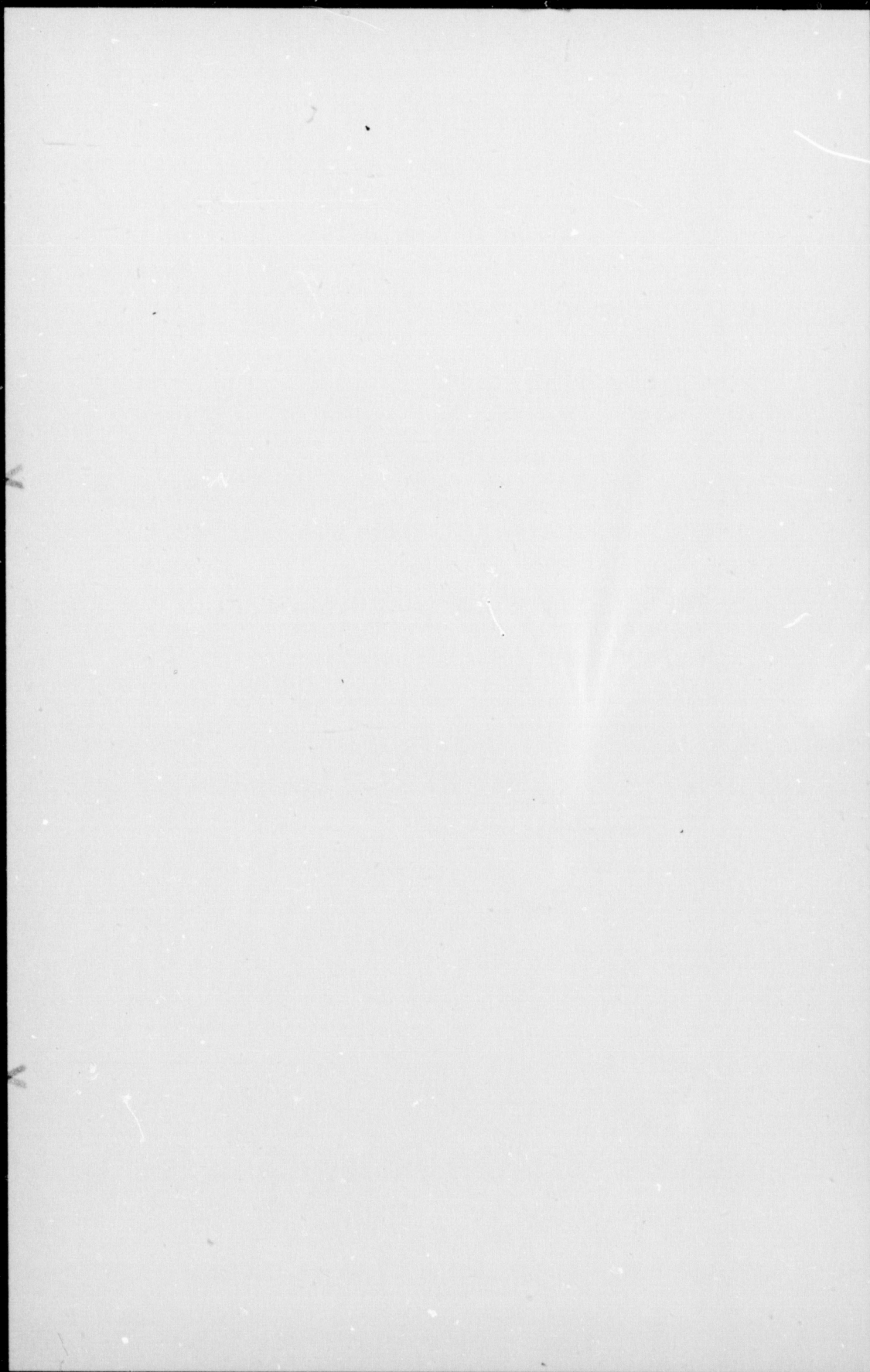
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## DOCKET

1973

- 3/29/73 The Grand Jury at Hartford returned a True Bill of Indictment charging violation of 18 USC 472 in counts 1 and 2 — conspire to violate 18 USC 472 and wilfully and knowingly did keep in their possession and conceal certain falsely made, forged, counterfeited or altered obligations and securities of the United States. Summons to issue for April 16th. (Blumenfeld, J.)m-3/30/73
- 4/2 Summons issued in duplicate and with certified copy of the indictment handed US Marshal for service.
- 4/16 Appearance of Joseph M. Tapper entered and filed to represent Defendant, Marlon E. McLennan.
- 4/16 PLEA of *not guilty* entered to counts 1 and 2 by Defendant, Marlon E. McLennan. Motions to be filed by April 30th. Govt. to respond by one week. (Clarie, J.) 4/17/73
- 4/16 PLEA of *not guilty* entered to two counts by Defendant, Julian Taylor. Motions to be filed by April 30th. Govt. to respond within one week. (Clarie, J.)m-4/17/73
- 4/16 Plea of Walter B. Frederick continued for two weeks to obtain counsel (Clarie, J.)m-4/17/73
- 4/19 Appearance of Peter J. Zaccagnini, Jr. entered and filed to represent Defendant Reuben McCrary.
- 4/4 Marshal's return showing service, filed. (Summonses — 4 Defts.)
- 4/6 Reg. mail receipts #050041 & 050042, filed.
- 4/13 Reg. mail receipts #050160, filed.
- 4/13 Marshal's unexecuted return, filed. (Summons, Deft. Frederick)
- 4/30 Deft. McCrary's Motion For Discovery and Inspection; Motion To Compel Disclosure of All Exculpatory Material and Information; Motion For Bill of Particulars, filed.
- 4/30 Deft. McLennan's Motion For Bill of Particulars; Motion To Compel Disclosure of All Exculpatory Material and Information; Motion To Suppress Motion For Discovery and Inspection, filed.
- 4/30 PLEA of *not guilty* on counts 1 & 2 entered by Deft. Fredericks. Motions to be filed by Atty. Boce Barlow by May 14th. Govt. to respond in one week. Case to appear

- next week, on Judge Blumenfeld's calendar for filing of appearance by Atty. Barlow. (Clarie, J.)m-5/1/73
- 5/7 Cal. Motions 1 thru 4. Over two weeks — #5, 6 & 7 Off. (Blumenfeld)
- 5/7 Plea of Deft. Frederick, over to Monday, 5/14/73. (Blumenfeld, J.)m
- 5/10 Endorsement entered on Motion For Bill of Particulars (McCrary), "Off — May 7, 1973." (Blumenfeld, J.)m-5/14/73
- 5/10 Endorsement entered on Motion For Discovery and Inspection (McCrary), "Off — May 7, 1973." (Blumenfeld, J.)m-5/14/73 Copies to Attys. Sale and Zaccagnino and Tapper.
- 5/7 Government's Response To Defendant's Motion To Compel Disclosure of Exculpatory Information; Bill of Particulars; and Government's Response To Defendant's Motion For Discovery and Inspection, filed.
- 5/14 To be on Judge Clarie's Calendar 5/1/73 — App. of Counsel of Deft's. choice to be filed before 5/21/73 — Govt. ready to proceed. (Blumenfeld, J.)m-5/15/73 (Deft. Frederick)
- 5/18 Govt's. Response to Defendant's (McLennan). Motion For Discovery and Inspection; Govt's. Response to Defendant's (McLennan) Motion To Compel Disclosure of Exculpatory Information; and (Govt's.) Bill of Particulars, filed.
- 5/18 Government's Response to Defendant's Motion To Suppress, filed.
- 5/21 Deft. McLennan's Motion For Bill of Particulars and To Compel Disclosure of all Exculpatory Material and Information, off by agreement. Deft. McLennan's Motion To Suppress and For Discovery and Inspection, Denied. (Blumenfeld, J.)m-5/22/73
- 5/21 Deft. Frederick re obtaining a lawyer — Deft. still has no lawyer. Claims he cannot raise sufficient funds — Court directs Defendant to complete necessary forms in Public Defender's Office re Court appointment of attorney to represent him. (Blumenfeld, J.)m-5/22/73
- 5/21 Law Student Intern Appearance ford, filed. Deft. McLennan has consented to appearance of Jacob So-



botka, Law Student, under the supervision of Joseph M. Tapper, Atty. Appearance Approved. (Blumenfeld, J.)

- 5/21 Endorsement entered on Motion To Suppress (Deft. McLennan) "Motion denied after hearing. (See Transcript.)" May 21, 1973. (Blumenfeld, J.)m
- 5/21 Endorsement entered on Deft. McLennan's Motion For Discovery and Inspection. "The only issue pursued at the hearing was whether the govt. was required to disclose names and addresses and statements of witnesses. Motion denied. May 21, 1973." (Blumenfeld, J.) m-5/21/73 Copies of above endorsements mailed to Attys. Sale, Tapper, and Zaccagnino.
- 4/19 Court Reporter's Notes of Proceedings held on April 16, 1973, filed in Hartford. (Sperber, R.)
- 6/26 Deft. Frederick's Motion For Disclosure and Production, and Deft. Frederick's Motion For Bill of Particulars, filed.
- 7/2 Deft. Frederick's Motions on cal. withdrawn by agreement of counsel. (Blumenfeld, J.)m-7/5/73
- 6/11 Appearance of Thomas G. Dennis entered and filed to represent Defendant Walter Frederick.
- 7/10 Court Reporter's Notes of Proceedings held on April 30, 1973, filed in Hartford. (Sperber, R.)
- 8/1 Court Reporter's Notes of Proceedings held on May 21, 1973, filed in Hartford. (Collard, R.)
- 8/1 Court Reporter's Notes of Proceedings held on May 7, 1973, filed in Hartford. (Collard, R.)
- 8/16 Court Reporter's Sound Recording of Proceedings held on April 16, 1973, filed in Hartford. (Sperber, R.)
- 8/16 Court Reporter's Sound Recording of Proceedings held on April 30, 1973, filed in Hartford, (Sperber, R.)
- 9/10 (Deft. Frederick.) Motion to Suppress and Motion to Suppress Testimony, filed.
- 9/18 Endorsements entered on Deft. Frederick's Motion To Suppress and Motion To Suppress Testimony — "Over until Oct. 1, 1973." (Blumenfeld, J.)m-9/20/73 Copies mailed to counsel of record.
- 9/17 W. B. Frederick, Jr. — Motion To Suppress and Motion To Suppress Testimony, over to next calendar.

- (Blumenfeld, J.)m-9/21/73
- 10/1 Endorsement entered on Motion To Suppress, "10/1/73 Decision reserved; briefs to be served and filed by 10/10/73" (Latimer Mag.)m-10/3/73
- 10/1 **ENDORSEMENT ENTERED ON** Motion To Suppress Testimony, "10/1/73 Decision Reserved; briefs to be served and filed by 10/10/73". (Latimer, Mag.)m-10/3/73
- 10/9 Government's Response To Defendant Frederick's Motion To Suppress, filed.
- 10/1 Govt. and Defendant to submit Briefs by 10/10/73, re sufficiency of Warrant — Defendant to amend motion by 10/10/73 — Govt. exh. #1 entered, Aff & Appl for Search and Seizure Warrant dated Jan. 19, 1973. Over to no certain date. (Latimer, Mag.)m-10/3/73
- 10/11 Defendant's Memorandum In Support of Motion To Suppress, filed along with affidavit of Thomas G. Dennis. Motion of Defendant Frederick's To Suppress, filed.
- 10/8 Court Reporter's Notes of Proceedings held on July 2, 1973, filed in Hartford. (Winkler, Wm. R.)
- 10/8 Court Reporter's Notes of Proceedings held on October 1st, 1973, filed in Hartford. (Collard, R.)
- 10/16 Continuance of Defendant Frederick's Motions to Suppress, filed.
- 10/19 Court Reporter's Sound Recording of Proceedings held on May 7, 1973, filed in Hartford. (Collard, R.)
- 10/16\*\* (Latimer, Mag.)m-10/16/73 Copies sent to all counsel of record.
- 12/13 Defendant Walter B. Frederick's Memorandum In Support of Motion to Suppress, filed.
- 12/3 Hearing on Deft. Frederick's Motion to Suppress. One Government witness sworn and testified. Government's Exhibit 1 filed. Two defendant's witnesses sworn and testified. December 12, 1973 for briefs by both parties. Decision Reserved. (Exhibit 1 with file.) (Blumenfeld, J.)m-12/4/73.
- 12/18 Jury Assignment List. Over to Middle of January 1974. (Blumenfeld, J.)m-12/20/73
- 1/2 Ruling on Motion To Suppress (Walter B. Frederick, Jr.), filed. (Blumenfeld, J.)m-1/4/74 "... the motion to



suppress is denied." Copies mailed to Attys. Jones, Tapper Zaccagnino, Dennis and Sturtevant.

- 12/20 Court Reporter's Notes of Proceedings held on December 3, 1973, filed in Hartford. (Collard, R.)
- 12/23 Notice of Intent to File Motion To Dismiss Indictment, filed for Deft. Julian Taylor by Counsel.
- 12/12 Notice of Intent to File Motion to Dismiss Indictment, filed by Deft. Marlon McLennan.
- 12/14 Notice of Intent to File Motion To Dismiss Indictment, filed by Defendant Walter B. Frederick, Jr.
- 6/6 Appl. for Writ of Habeas Corpus and Prosequendum and Order (Blumenfeld, J.)m-6/19/74, filed. (Two copies of Writ and two attested copies of Order handed US Marshal for service.
- 6/18 Notice of Intent to File Motion To Dismiss Indictment, filed, re Marlon E. McLennan.
- 6/18 Deft. Walter B. Frederick, Jr's. Motion To Sever, filed.
- 6/6 Appl. For Writ of Habeas Corpus ad Prosequendum and Order (Blumenfeld, J.)m-6/19/74, filed. Two attested copies of Order and two copies of Writ handed US Marshal for service. (Julian Taylor) (Duplication, see above)
- 6/12 Marshal's executed return, filed. (Writ of Habeas Corpus)
- 6/18 Call of Jury Assignment List Cal. — Ready. Deft. McLennan granted 24 Hours to file Motion To Dismiss. (Blumenfeld, J.)m-6/20/74
- 6/19 Motion (Deft. Marlon McLennan) To Dismiss Indictment, filed.
- 6/19 Motion (Deft. Julian Taylor) To Dismiss Indictment, filed.
- 6/20 Motion To Dismiss Indictment and Motion To Sever filed by Deft. Reuben McCrary.
- 6/18 Motion To Dismiss Indictment, filed re Deft. Frederick.
- 9/3 Defendant's (Walter B. Frederick, Jr.) Motion To Sever Over to 9/16/74. (Blumenfeld, J.)m-9/4/74
- 9/16 Deft's. (Walter B. Frederick, Jr.) Motion To Sever Over to 9/30/74. (Blumenfeld, J.)m-9/17/74
- 9/24 Call of Jury Assignment List Cal. — Hearing held on

Defendants' Motions to Dismiss and Defendants' Motions to Sever — all motions denied. Jury to be selected tomorrow 9/24/74. (Murphy, J.)m-9/25/74

- 9/30 Court reporter's transcript of proceedings held on December 3, 1973, filed in Hartford. (Collard, R.)
- 9/30 CHANGE OF PLEA of *guilty* to count 1 entered by Deft. Julian Taylor. Case continued for presentence report. Count 2 to be dismissed at time of disposition. (Blumenfeld, J.)m-10/1/74
- 9/23 Call of Jury Trial List — Trial 11/12/74. (Blumenfeld, J.)m-10/24/74
- 11/11 CHANGE OF PLEA of *guilty* to Count One entered by Deft. Marlon Eubank McLennan. Case continued for presentence report. Count two to be dismissed upon disposition.
- 11/12 JURY TRIAL — Defts. Fredericks & McCrary proposed Voir Dire Questions; filed by Deft. Frederick — Panel of 48 jurors reported and sworn on Voir Dire — 14 Jurors impanelled and sworn — Two Jurors to be later designated as alternates by Court — Govt. Witness sworn and testified — Govt. exh. 1, 2 & 3, filed, then made Full Exhibits — Court exhibits 1 thru 4, filed. Court orders Govt. and Def. witnesses to be sequestered until after testifying — Deft. McLellan sworn and testified — Govt. exhibit 4 made full exhibit — Govt. exhibits 5 thru 7 made full exhibits — Grand Jury Testimony of Julian Taylor entered as Court exh. #5. Court adjourned at 4:35 p.m. (Blumenfeld, J.)m-11/13/74
- 11/13 JURY TRIAL CONTINUES Defts. Fredericks and McCrary — 14 Jurors report — Excerpts of Testimony by Marlon McLennan, filed by Court reporter — 3 Govt. Witnesses sworn and testified — Govt. exh. 8, filed. Oral Motion of Deft. Frederick To Suppress — Denied — Parties stipulate as to chain of custody — Govt. rests at 2:12 p.m. — Oral motions of both Defts. for Judgment of Acquittal — Denied — Defts. case commences at 2:15 p.m. — Deft. Witness sworn and testified — Defts. Frederick and McCrary rest at 2:17 p.m. Request to Charge, filed by Govt. Court adjourned at 2:25 p.m. (Blumenfeld, J.)m-11/14/74

- 11/20 NOTICE OF READINESS FOR RETRIAL FILED BY GOVERNMENT.
- 11/20 Request To Transfer Case To Different Judge For Retrial, filed by Government.
- 11/26 Endorsement entered on Request to Transfer Case to Different Judge for Retrial; "Motion Granted — 11/26/74 — M.J.B., USDJ" m-12/2/74 Copies mailed to all counsel of record.
- 11/14 *JURY TRIAL CONTINUES* — 14 Jurors report — Summations from 10:05 a.m. to 11:36 a.m. — Govt. rebuttal from 11:36 a.m. to 11:47 a.m. — Court charges from 12:01 p.m. to 1:12 p.m. — Court's supplemental charge from 2:15 p.m. to 2:25 p.m. — Alternate Jurors excused — Jury retires at 2:30 p.m. and exhibits and indictment given to Jury — At 2:58 p.m. jury requested 3rd statement of Deft. Taylor, Denied not an exhibit — At 3:38 p.m. Jury returns and states it cannot reach a verdict — Court sends Jury back for more deliberation — John Kosick spoke for Jury as Foreman — At 4:55 p.m. Jury reports still cannot reach a verdict — Court excuses Jury till 10:00 a.m. (Blumenfeld, J.)m-11/15/74
- 11/15 *JURY TRIAL CONTINUES*: Panel of 12 Jurors appear — Jurors continue their deliberations at 10:00 a.m. — Jury reports at 11:25 a.m. that it is unable to reach a verdict on either count with either defendant — Court declares a mistrial and excuses Jurors until 10:00 a.m. on 11/19/74. (Blumenfeld, J.)m-11/18/74
- 12/4 Objection To Government's Request for Transfer to Different Judge, filed by Attorney Dennis.
- 12/16 Disposition of Julian Taylor over by agreement of counsel. (Blumenfeld, J.)m-12/18/74
- 12/13 Court Reporter's Transcripts (3 Vols.) of proceedings held on November 12, 13 & 14, 1974, filed in Hartford. (Collard, R.)
- 1975
- 1/2 Motion For Permission to Withdraw Appearance, filed by Atty. Dennis.
- 1/3 Court Reporter's Sound Recording of Proceedings held on November 11, 1974, filed in Hartford. (Collard, R.)



- 1/6      Hearing on Objection To Government's Request For Transfer To Different Judge, — Dec. Res. (Blumenfeld, J.)m-1/8/75
- 1/7      Endorsement entered and filed on Objection To Government's Request For Transfer To Different Judge, "Opportunity to be heard was afforded — and orig. ruling adhered to." 1/7/74 (Blumenfeld, J.)ml/ Copies sent to counsel of record.
- 1/7      Case #1 for jury selection tomorrow. Atty. Zaccagnino to be notified to be here for jury selection. (Clarie, J.)
- 1/8      JURY TRIAL — Ready. Voir Dire questions filed by Attys. Dabrowski and Dennis. 53 Jurors had answered call — 12 Jurors and 1 Alternate impanelled and sworn. (Clarie, J.)
- 1/22      JURY TRIAL COMMENCES: Defts. Frederick and McCrary — 13 Jurors report — Atty. Dennis makes motion to Suppress — Govt. Exh. #3 — Court will adhere to ruling of Judge Blumenfeld denying Motion To Suppress — Atty. Zaccagnino moves that witnesses be sequestered and Govt. makes request that all Defense witnesses be sequestered except for Linda Braithwaite, Motion Granted. Government's Requested jury instructions, filed. — 2 Govt. witnesses, sworn and testified — Govt. exhibit #1, filed — Govt. exh. #2 & #3, filed — Govt. exh. #4, 5, 6 & 7 made full exhibits — Atty. Thomas Dennis moves for severance, Motion Denied — Govt. Witness previously sworn resumed stand and testified. Court adjourned at 4:55 p.m. until tomorrow at 10:00 a.m. (Clarie, J.)
- 1/23      JURY TRIAL CONTINUES: 13 Jurors report — Govt. witness continues testimony on cross-examination 3 Govt. Witnesses, sworn and testified — Govt. exh. #9, filed — Govt. exh. #3 & #8 made full exhibits — Atty. Dennis renews Motion To Suppress, Motion Denied — Govt. rests at 4:48 p.m. Court adjourned at 4:50 p.m. till tomorrow at 10:00 a.m. (Clarie, J.)
- 1/24      JURY TRIAL CONTINUES: 13 Jurors report — Atty. Dennis makes Motion for Judgment of Acquittal — Atty. Zaccagnino makes Motion for Judgment of

Acquittal — Motions Denied — Defendants rested at 10:17 a.m. — Govt. summation from 10:18 a.m. to 11:06 a.m. Atty. Zaccagnino's summation from 11:23 a.m. to 12:08 p.m. — Atty. Dennis' summation from 12:19 p.m. to 1:00 p.m. — Atty. Dabrowski's rebuttal from 2:01 p.m. to 2:14 p.m. — Court commences charge at 2:15 p.m. to 3:05 p.m. — Alternate juror excused — Jury retires at 3:07 p.m. — No exceptions to charge — Indictment and exhibits given to jury at 3:10 p.m. — Jury returns at 4:02 p.m. with verdict of GUILTY against both Defendants on both counts — Jury polled at request of both defense counsel — Verdict ordered received and recorded — Bonds of \$5,000.00 with full surety set for each defendant. (Clarie, J.)

- 1/24 Bonds in the amount of \$5,000.00 with full surety filed for each Defendants (Frederick and McCrary). Surety is Resolute Ins. Co. by Paul A. LaRosa.
- 1/27 Endorsement entered and filed on Deft. Frederick, Jr.'s Motion to Sever, "This motion has now become academic according to Defs. & therefore denied. — Nov. 12, 1974." (Blumenfeld, J.) m-1/27/74
- 1/24 Court Reporter's Notes of Proceedings held on November 12, 13, 14 and 15, 1974, filed in Hartford. (Collard, R.)
- 1/30 Endorsement entered on Letter dated Jan. 29, 1975 from Atty. Zaccagnino to Judge Clarie, filed. "January 29, 1975 The Connecticut restriction on the bond shall be eliminated when the bondsman files a consent; at that time the Court will modify the bond accordingly. So Ordered." (Clarie, J.) m-1/30/75 Copy sent to Attys. Dabrowski and Zaccagnino.
- 1/30 Motion For Judgment of Acquittal, filed by Atty. Dennis.
- 1/29 Motion For Judgment of Acquittal, filed by Atty. Zaccagnino.
- 1/31 Endorsement entered and filed on Deft. McCrary's Motion For Judgment of Acquittal, "January 31, 1975 Motion denied; so ordered." (Clarie, J.) m-1/31/75
- 1/31 Endorsement entered and filed on Deft. Frederick's Motion For Judgment of Acquittal, "January 31, 1975

Motion denied; so ordered." (Clarie, J.)m-1/31/75  
Copies of above sent to Attys. Zaccagnino, Dennis and Dabrowski.

- 2/3     **DISPOSITION:** (Marlon E. McLennan, ct. 1) — one year imprisonment, execution suspended; defendant placed on probation for a period of two years. Sentence imposed pursuant to the provisions of the Youthful Adult Offenders Act (18 USC 5010(a) as amended by 18 USC 4209). Blumenfeld J.)
- 2/3     Order for Dismissal (McLennan) of count 2, filed. (Blumenfeld, J.)m-2/7/75
- 2/7     Judgment and Order of Probation (McLennan), filed. (Blumenfeld, J.)m-2/10/75 Two attested copies handed US Probation Officer in Hartford.
- 2/19    Endorsement entered on letter from Paul A. LaRosa, Connecticut Bail Bonds, Inc., dated February 12, 1975: "Feb. 19th, 1975; The bail bond is modified, consistent with the aforesaid consent. SO ORDERED. T. Emmet Clarie, USDJ". Copies sent to Paul A. LaRosa, A. Dabrowski, Asst. U.S. Atty. and Atty. Zaccagnino.
- 2/18    **DISPOSITION** — (Julian Taylor-ct.-1) — three years imprisonment, execution suspended, defendant placed on probation for a period of three years. A Condition of probation is that the defendant make every reasonable effort to obtain services of a psychiatrist with advise and help of Probation Dept. (Blumenfeld, J.) Order for Dismissal of Count 2, filed. (Blumenfeld, J.) m-2/24/75
- 2/24    Judgment and Order of Probation, filed. (Blumenfeld, J.)mm-2/24/75 Two attested copies handed US Probation Officer in Hartford.
- 2/27    Notice of Appeal re Julian Taylor, filed. Copies disbursed to Attys. Sturtevant and Dabrowski.
- 2/28    Certified copy of Notice of Appeal and Docket Entries mailed to USCA.
- 3/10    Acknowledgement received and filed from USCA for documents mailed on 2/28/75.
- 3/10    **DISPOSITION** — Deft. McCrary — 2 cts. — three years imprisonment on each of two counts to run concurrently. Bond of \$5,000.00 to remain for purpose of



appeal. (Clarie, J.)

- 3/10     *DISPOSITION* — Deft. Frederick — 2 counts —  
two years imprisonment on each of two counts to run  
concurrently. Bond to remain the same for purposes of  
appeal. (Clarie, J.)
- 3/11     Judgment and Commitments, filed re Defts. McCrary  
and Frederick . (Clarie, J.)m-3/11/75 Two attested  
copies handed US Marshal in Hartford and one handed  
US Probation Officer in Hartford.
- 3/18     Notice of Appeal, filed by Deft. Reuben McCrary.  
Copies handed counsel.
- 3/18     Certified copy of Notice of Appeal and Docket entries  
sent Clerk, USCA.
- 3/18     Notice of Appeal, filed by Deft. Walter B. Frederick,  
Jr. Copies handed Attys. Dennis and Dabrowski and  
copy mailed to Atty. Zaccagnino.
- 3/17     Record of Appeal (Deft. Taylor, Order Denying Mo-  
tion To Dismiss) sent to USCA and copies of Docket  
Entries and Indexes sent Attys. Sturtevant and Da-  
browski.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA

v.

JULIAN TAYLOR, MARLON EUBANK  
McLENNAN a/k/a "Lonnie",  
WALTER B. FREDERICK, JR. a/k/a  
"Sonny", and REUBEN McCrARY

CRIMINAL NO. H457

INDICTMENT

The Grand Jury charges:

COUNT 1

1. From on or about the 1st day of December, 1972, up to and including on or about the 31st day of January, 1973, in the District of Connecticut, JULIAN TAYLOR, MARLON EUBANK McLENNAN a/k/a "Lonnie", WALTER B. FREDERICK, JR. a/k/a "Sonny", and REUBEN McCrARY, the defendants, and others to the Grand Jury unknown, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together with each other to violate Section 472 of Title 18, United States Code.

2. It was part of said conspiracy that the said defendants unlawfully, wilfully and knowingly and with intent to defraud, would pass, utter, publish and sell, and attempt to pass, utter, publish and sell, and with like intent keep in their possession and conceal, certain falsely made, forged, counterfeited or altered obligations and securities of the United States, to wit, altered United States Savings Bonds, in violation of Section 472 of Title 18, United States Code.

OVERT ACTS

In Pursuance of the said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the District of Connecticut:

1. In or about December, 1972, JULIAN TAYLOR, MARLON EUBANK McLENNAN a/k/a "Lonnie", WALTER B. FREDERICK, JR. a/k/a "Sonny", and REUBEN McCrARY, the defendants, met at 172 Tower Avenue, Hartford, Connecticut.

2. In or about December, 1972, MARLON EUBANK McLENNAN a/k/a "Lonnie", removed a validating stamp from the United Bank and Trust Company, Albany Avenue Branch, Hartford, Connecticut.



3. On or about January 18, 1973, JULIAN TAYLOR, the defendant, offered to sell a quantity of United States Savings Bonds.

**COUNT TWO**

The Grand Jury further charges:

From on or about the 1st day of December, 1972, up to and including on or about the 31st day of January, 1973, in the District of Connecticut, JULIAN TAYLOR, MARLON EUBANK McLENNAN a/k/a "Lonnie", WALTER B. FREDERICK, JR. a/k/a "Sonny", and REUBEN McCRARY, the defendants, with intent to defraud, unlawfully, wilfully and knowingly did keep in their possession and conceal certain falsely made, forged, counterfeited or altered obligations and securities of the United States, to wit: approximately \$16,450.00 in altered United States Savings Bonds, in violation of Title 18, United States Code, Sections 472 and 2.

A TRUE BILL  
W. P. ABBOTT  
Foreman

STEWART H. JONES  
United States Attorney

JON A. SALE  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA  
VS.  
WALTER B. FREDERICK, JR.

CRIMINAL NO. H-459

NOTICE OF APPEAL

Notice is hereby given that Walter B. Frederick, Jr., Defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final judgment entered in this action on March 10, 1975.

Dated at South Windsor, Connecticut, this 17th day of March, 1975.

Defendant,  
WALTER B. FREDERICK, JR.

By .....  
THOMAS G. DENNIS  
His Attorney  
656 Ellington Road  
P.O. Box 52  
South Windsor, Ct. 06074

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA  
VS.

JULIAN TAYLOR, MARLON  
EUBANK McLENNAN a/k/a  
"Lonnie", WALTER B.  
FREDERICK, JR. a/k/a "Sonny",  
and REUBEN McCrARY

CRIMINAL NO. H-459  
October 9, 1973

**MOTION TO SUPPRESS**

The Defendant, Walter B. Frederick, Jr., moves, pursuant to Rule 41(e) of the Federal Rules of Criminal Procedure, to suppress for the use as evidence the items hereinafter described for the reasons that they were seized or obtained pursuant to a Warrant which was issued without probable cause for believing the existence of the grounds upon which it was issued; for the reason that said Warrant was illegally executed; and for the reason that some of the property seized was not that described in the Warrant:

1. The following \$100.00 Bonds:

C1010-008-041	TO 050	10 BONDS
C010008-091	TO 100	10 BONDS
C101008140	TO 150	11 BONDS
C101008241	TO 250	10 BONDS
C1010008291	TO 300	10 BONDS
C101008334	TO 350	17 BONDS
C1010008441	TO 450	10 BONDS
C1010008491	TO 500	10 BONDS
C1010008540	TO 550	11 BONDS
C1010008641	TO 650	10 BONDS
C1010008691	TO 700	10 BONDS
C1010008739	TO 750	12 BONDS
C1010008841	TO 850	10 BONDS
C1010008891	TO 900	10 BONDS
C1010008940	TO 950	11 BONDS
C1010008985	TO 1000	16 BONDS

2. The following \$50.00 Bonds:

L1021744596	TO 600	5 BONDS
-------------	--------	---------

L1021744796	TO 800	5 BONDS
L1021744922	TO	1 BOND
L1021744996	TO 1021745000	5 BONDS
L1021745196	TO 200	5 BONDS
L1021745396	TO 400	5 BONDS

3. Any and all checks or drafts seized by the police.

DEFENDANT

WALTER B. FREDERICK, JR.

By .....

THOMAS G. DENNIS

His Attorney

**ORDER**

The foregoing Motion To Suppress having been heard by this Court and it appearing that the same ought to be granted, this said Motion is hereby GRANTED/DENIED.

BY THE COURT

.....  
U.S.D.J.

**CERTIFICATION**

This is to certify that a copy hereof was this date mailed, postage prepaid, to:

Stewart H. Jones  
United States Attorney  
915 Lafayette Street  
Bridgeport, Connecticut

.....  
THOMAS G. DENNIS



UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA  
VS.

JULIAN TAYLOR, MARLON  
EUBANK McLENNAN a/k/a  
"Lonnie", WALTER B.  
FREDERICK, JR. a/k/a "Sonny",  
and REUBEN McCRARY

CRIMINAL NO. H-459

**MOTION TO SUPPRESS TESTIMONY**

The Defendant, Walter B. Frederick, Jr., moves to suppress as evidence any testimony concerning statements and/or admissions obtained from the said Defendant on the day of his arrest for the reason that said arrest was illegal and the statements and/or admissions so obtained were the fruits of an illegal arrest.

DEFENDANT  
WALTER B. FREDERICK, JR.

By .....  
THOMAS G. DENNIS  
His Attorney

**ORDER**

The foregoing Motion To Suppress Testimony having been heard by this Court and it appearing that the same ought to be granted, this said Motion is hereby GRANTED/DENIED.

BY THE COURT

.....  
U.S.D.J.

**CERTIFICATION**

This is to certify that a copy hereof was this date mailed, postage prepaid, to:

Stewart H. Jones  
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THOMAS G. DENNIS

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA  
VS.

JULIAN TAYLOR, MARLON  
EUBANK McLENNAN a/k/a  
"Lonnie", WALTER B.  
FREDERICK, JR. a/k/a "Sonny",  
and REUBEN McCRARY

CRIMINAL NO. H-459  
October 9, 1973

**AFFIDAVIT**

Thomas G. Dennis, having been duly sworn, deposes and says:

1. I am the attorney for the defendant, Walter B. Frederick, Jr., and am familiar with the facts and circumstances surrounding the above captioned matter.

2. Shortly after I entered my appearance on behalf of Frederick I was advised by then Assistant United States Attorney Jon Sale that this was to be an "open file" case.

3. On July 5, 1973 I reviewed the Government's file as it pertains to the defendant, Frederick. The reports in this file disclosed that the so-called "government informant" referred to in the application for a search warrant was the co-defendant, Julian Taylor.

4. Nothing in the Government file indicates that the affiants, John McCarthy and Richard Raposa, or any other law enforcement officer had ever obtained information from Julian Taylor prior to January 18, 1973.

5. The reports do disclose that late on the night of January 18, 1973 the F.B.I. received a call to proceed to the residence of Julian Taylor in Hartford.

6. When the F.B.I. agent arrived at the Taylor residence the house was in darkness, Taylor was there armed with two revolvers and a butcher knife and was in a "belligerent" mood. Taylor advised the agents that he had \$1,000,000.00 worth of stolen United States Savings Bonds that he was willing to sell to the Government for \$1,800.00.

7. Taylor turned one of the bonds over to Special Agent Dewey Santacrose for verification and arrangements were made for the agents to return the next day and advise Taylor whether

or not the Government wished to purchase the bonds.

8. On the following day, January 19, 1973, the agents returned to the Taylor residence and advised Taylor that they had someone from the Treasury Department who would buy the bonds. Taylor then admitted that he had lied and did not, in fact, have \$1,000,000.00 of bonds.

9. When the police applied to Judge Ewing for the warrant they failed to disclose the unusual and bizarre behavior exhibited by Taylor at the time he gave the so-called "reliable and factual" information and further, they failed to advise Judge Ewing that Taylor had lied to them concerning the amount of the bonds in his possession.

10. If all these facts had been furnished it is likely that Judge Ewing would not have issued the search warrant. Further, if these facts had been included, the application could not support a finding of probable cause.

11. For this reason the defendant, Walter B. Frederick, Jr., requests the Court to hold an evidentiary hearing to fully inquire into the facts and circumstances surrounding the claimed reliability of the informant, Julian Taylor.

.....  
THOMAS G. DENNIS

Subscribed and sworn to before me  
this 9th day of October, 1973.

.....  
Notary Public  
Commissioner of the Superior Court

**CERTIFICATION**

This is to certify that a copy hereof was this date mailed,  
postage prepaid, to:

Randolph Roeder, Esquire  
450 Main Street  
Hartford, Connecticut

.....  
THOMAS G. DENNIS



**STATE OF CONNECTICUT  
CIRCUIT COURT**

**TO: A JUDGE OF THE CIRCUIT COURT**

The undersigned, being duly sworn, complains on oath that the undersigned has probable cause to believe that certain property, to wit: U.S. Savings Bonds, list attached.

Is possessed, controlled, designed or intended for use as a means of committing the crime of . . .

Counterfeiting, Forgery, Larceny

Is or has been or may be used as the means of committing the crime of . . .

Counterfeiting, Forgery, Larceny

Was stolen or embezzled from . . .

State Comptroller's Office, 20 Trinity Street, Hartford, Conn.

And is within or upon a certain person, place, or thing, to wit . . . The residence of Walter B. Frederick, AKA Sonny Frederick, 172 Tower Ave., Htfd., a one story yellow wood frame dwelling having an attic dormer window and a porch in the front, and a single car garage underneath the dwelling, located on the east side of Tower Ave., Htfd.

And that the facts establishing the grounds for issuing a Search and Seizure Warrant are the following . . .

1. That I, Tpr. Richard A. Raposa, am a member of the Conn. State Police and have been for the past 3 years and am presently assigned to Troop H, Htfd.
2. That I, John McCarthy, am a member of the U.S. Secret Service and have been for the past 10 years and am presently assigned to the New Haven Field Office.
3. That on Dec. 6, 1972, at 1500 hours, a complaint was received at Troop H in Htfd., from Mr. Morin of the State Comptroller's Office, 20 Trinity St., in Htfd. that several U.S. Savings Bonds were missing.
4. That subsequent investigation revealed that 178 \$100.00 U.S. Savings Bonds value \$13,350.00, maturity value \$17,800.00 and 26 \$50.00 U.S. Savings Bonds value \$975.00, maturity value \$1,300.00 were missing. See list attached.
5. That included in the U.S. Savings Bonds missing was a series of 17 \$100.00 U.S. Savings Bonds Serial Number C1010008334E through C1010008350E.



6. That *on this date* information was gained through a government informant that the above mentioned bonds were located at the above mentioned address of 172 Tower Ave., Htfd.
7. That information had been received from this informant *in the past*, which had proved to be reliable and factual.
8. That on Wed., Jan. 17, 1973, the informant went to 172 Tower Ave., Htfd., address where he observed said bonds. Subsequently, said informant took twenty (20) of said bonds into his possession and turned them over to Secret Service Agent John J. McCarthy.
9. That based on the above information probable cause does exist to believe that the aforementioned bonds are at the above address.
10. That these twenty bonds were among those listed as taken from the comptrollers office.

NOW THEREFORE, by Authority of the State of Connecticut, I hereby command any Police Officer of a regularly organized police department or any State Policeman to whom these presents shall come within a reasonable time after the date of this warrant to:

Enter into or upon and search the place or thing described in the foregoing Affidavit and Application to wit:

The residence of Walter B. Frederick, AKA Sonny Frederick, 172 Tower Ave., Htfd., a one story yellow wood frame dwelling having an attic dormer window and a porch in the front, and a single car garage underneath the dwelling, located on the east side of Tower Ave., Htfd.

Search the person described in the foregoing Affidavit and Application, to wit:

The property described in the foregoing Affidavit and Application, to wit:

U.S. Savings Bonds, list attached.

and upon finding said property to seize the same, take and keep it in custody until the further order of the court, and with reasonable promptness make due return of this warrant accompanied by a written inventory of all property seized.

685 File 10 S. B Hartford Conn CTCSP0900 Dec 8-72

To APB / KTS AU BU CU/

Attn PD Hartford

Stolen from the State Comptrollers Office in Hartford — U.S.  
Savings Bonds in the \$100.00 and \$50.00 denominations —

The following \$100.00 bonds

C1010-008-041	TO 050	10 BONDS
C010008-091	TO 100	10 BONDS
C101008140	TO 150	11 BONDS
C101008241	TO 250	10 BONDS
C1010008291	TO 300	10 BONDS
C101008334	TO 350	17 BONDS
C1010008441	TO 450	10 BONDS
C1010008491	TO 500	10 BONDS
C1010008540	TO 550	11 BONDS
C1010008641	TO 650	10 BONDS
C1010008691	TO 700	10 BONDS
C1010008739	TO 750	12 BONDS
C1010008841	TO 850	10 BONDS
C1010008891	TO 900	10 BONDS
C1010008940	TO 950	11 BONDS
C1010008985	TO 1000	16 BONDS

The following \$50.00 bonds

L1021744596	TO 600	5 BONDS
L1021744796	TO 800	5 BONDS
L1021744922	TO	1 BOND
L1021744996	TO 1021745000	5 BONDS
L1021745196	TO 200	5 BONDS
L1021745396	TO 400	5 BONDS

Total value — 14,000 dollars

Total maturity value — 19,000 dollars

SPB Case NBR — H-72-4524-C

Auth Lt Taylor Myers 1805

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT  
UNITED STATES OF AMERICA

v.

WALTER B. FREDERICK, JR.  
a/k/a "Sonny"

CRIMINAL NO. H-459

**RULING ON MOTION TO SUPPRESS**

On January 19, 1973, Special Agent John McCarthy of the United States Secret Service and Trooper Richard Raposa of the Connecticut State Police Department applied to Judge Ewing of the Connecticut Circuit Court for a warrant authorizing a search of the residence of the defendant, Walter B. Frederick, Jr., at 172 Tower Avenue, Hartford, Connecticut. Judge Ewing issued the warrant at that time. When the warrant was executed later that evening, law enforcement officers discovered and seized a number of United States Savings Bonds and certain other incriminating evidence.<sup>1</sup> The defendant is alleged to have made some incriminating statements and admissions when confronted with these items. He now moves to suppress this evidence on the grounds that it was seized or obtained pursuant to a warrant issued without probable cause, in violation of his rights guaranteed by the Fourth Amendment of the United States Constitution.

The central question here is whether sufficient information was presented to Judge Ewing to support an independent finding that probable cause existed. *Nathanson v. United States*, 290 U.S. 41, 47 (1933); *Whitely v. Warden of Wyoming State Penitentiary*, 401 U.S. 560, 564 (1971). The relevant circumstances leading up to the application for a warrant, as disclosed at the hearing on this motion, were the following. On January 18, 1973, Special Agent Dewey Santacrocce of the Federal Bureau of Investigation was contacted by an unnamed informant and requested to come to the informant's residence. When he arrived at the residence, accompanied by another special agent, Santacrocce found the informant to be "belligerent," "covert," and armed with a butcher knife and at least one pistol. The informant stated that he had \$1 million in stolen United States Savings Bonds which he wished to sell to the government for \$1800. He gave Santacrocce a single bond to establish his credibility. Santa-



croce checked the serial number of the bond given to him by the informant against those on a list of bonds recently stolen from the State Comptroller's Office in Hartford. He verified that the bond given to him was among those listed as having been stolen. Santacroce then gave this information to Special Agent McCarthy, believing the matter to lie within the jurisdiction of the Secret Service rather than the F.B.I.

On January 19, at approximately 5:00 P.M., McCarthy spoke to the informant at his residence, having been introduced by Santacroce and his partner. The informant gave McCarthy 19 more Savings Bonds and advised the agent that he had observed the remaining bonds at the defendant's residence at 172 Tower Avenue two days earlier, on January 17. McCarthy verified that the 19 bonds were also among those listed as having been stolen from the State Comptroller's Office. At approximately 7:00 P.M. on January 19, McCarthy and Trooper Raposa applied to Judge Ewing for the warrant to search 172 Tower Avenue.

The application for the warrant contains sufficient information to support a finding of probable cause.<sup>2/</sup> The standards for determining whether an application for a warrant based upon an informant's tip provides sufficient foundation for a finding of probable cause were set forth in *Aguilar v. Texas*, 378 U.S. 108, 114-115 (1964). The application must set forth the "'underlying circumstances' necessary to enable the magistrate independently to judge of the validity of the informant's conclusion" that the items sought are where he says they are. *Spinelli v. United States*, 393 U.S. 410, 413 (1969). In addition, the affiant-officers must "support their claim that their informant was "'credible" or his information "reliable."'" *Id.* at 413.

In the instant case, the critical factor in assessing whether the *Aguilar* tests have been met is the informant's surrender of some of the stolen bonds to Agents Santacroce and McCarthy. Thus the first *Aguilar* test is met by the fact that Agent McCarthy verified, and so stated in his application for the warrant, that the bonds actually given to him by the informant were among those listed as stolen from the State Comptroller's Office. Presented with the fact that the informant had had possession of some of the stolen bonds and had given them to law enforcement officers, Judge Ewing was certainly justified in concluding

that the informant knew where the remaining bonds were located.<sup>3/</sup> One can scarcely think of more persuasive "underlying circumstances" supporting an informant's claim that he knew where stolen bonds were located than surrender of some of the bonds themselves. The situation is thus at least as compelling as that in *Rugendorf v. United States*, 376 U.S. 528, 532 (1964), where the Court, holding that a finding of probable cause was justified, noted:

"Petitioner contends that probable cause did not exist because the only relevant recitations in the affidavit were the informant's statements that he saw the furs in petitioner's basement and that he was told that they were stolen. However, the informant's detailed description of the furs, including number and type, closely resembled Special Agent Paarmann's description of the furs stolen in Alabama. The affiant checked the burglary report records and found the Alabama burglary to be the only recent one in the United States involving furs of the description and number that the informant saw in petitioner's basement."

It is true that the affiant-officers did not corroborate the informant's claim as to the location of the bonds by personal observation, but such corroboration is not necessarily required where, as here, the application for the warrant states how the informant himself learned of the location. As the Court of Appeals for the Second Circuit stated in *United States v. Dunnings*, 425 F.2d 836, 839 (2d Cir. 1969), *cert. denied* 397 U.S. 1002 (1970):

"The requirement of *Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964), that the affidavit set forth the 'underlying circumstances' necessary to enable the magistrate to judge of the validity of the informant's conclusion . . . was fully met. To be sure there was not the corroboration which the defendant's own acts had provided in *Draper v. United States*, 358 U.S. 307, 79 S.Ct. 329, 3 L.Ed.2d 327 (1959), but, despite *Spinelli's* reference to *Draper* as 'a suitable benchmark,' 393 U.S. at 416, 89 S.Ct. 584, we do not read *Spinelli* as deciding that such corroboration is vital when, as here, the affidavit reveals how the informant received his information, see *id.*"

The "tangible" evidence of probable cause, the stolen bonds, received by Agent McCarthy and referred to in the application

for the warrant, would seem to establish probable cause even more strongly than situations in which the only indication of illegal activity is the *statement* of the informant to the officer-affiant. See *United States v. Suarez*, 380 F.2d 713, 715 (2d Cir. 1967); *United States v. Dunnings*, *supra*. 425 F.2d at 839.<sup>4/</sup>

The second *Aguilar* test is similarly satisfied by Agent McCarthy's sworn statement that "information had been received from this informant in the past, which had proved to be reliable and factual" and that the informant had turned over to him bonds which he determined were among those stolen from the State Comptroller's Office. The "information received in the past" was the statement by the informant on January 18 to Agent Santacroce that the bond turned over by the informant at that time had been among those stolen. This was subsequently verified by Agent Santacroce. Receipt of other stolen bonds on January 19 by Agent McCarthy further established the reliability of the informant. Under the rule in this circuit, the averment that reliable information had previously been received from the informant would itself be sufficient indication of the informant's reliability.

"A recitation that an unnamed informant has previously supplied accurate information is sufficient to justify reliance on the informant's story, *United States v. Dunnings*, *supra*, 425 F.2d at 839; *United States v. Ramos*, 380 F.2d 717 (2d Cir. 1967); *United States v. Perry*, 380 F.2d 356, 358 (2d Cir.), cert. denied 389 U.S. 943, 88 S.Ct. 307, 19 L.Ed.2d 299 (1967); *United States v. Freeman*, *supra*, 358 F.2d at 462, but it is not necessary. 'Such a recital . . . is only one way of validating hearsay . . . .' *United States v. Bozza*, *supra*, 365 F.2d at 225. See also *United States v. Harris*, 403 U.S. 573, 581-582, 91 S.Ct. 2075, 29 L.Ed.2d 723 (1971) (plurality opinion)."

*United States v. Sultan*, 463 F.2d 1066, 1069 (2d Cir. 1972). Moreover,

"[a]n untested informant's story may be corroborated by other facts that become known to the affiant, even if they corroborate only innocent aspects of the story. See *United States v. Dzialak*, 441 F.2d 212 (2d Cir.), cert. denied, 404 U.S. 883, 92 S.Ct. 218, 30 L.Ed.2d 165 (1971); *United States v. Viggiano*, 433 F.2d 716 (2d Cir. 1970), cert. denied, 401 U.S. 938, 91 S.Ct. 934, 28 L.Ed.2d 219 (1971)."

*Id.* Here, of course, the surrender of the bonds corroborated the



informant's claim that he knew where the stolen bonds were located. Finally, the fact that by surrendering the bonds the informant may have implicated himself in criminal activity is an additional indication of his reliability. *United States v. Harris*, 403 U.S. 573, 583-584 (1971) (plurality opinion). The application for the warrant in the instant case thus satisfied both *Aguilar* tests and was sufficient to support an independent finding of probable cause. See *United States v. Canieso*, 470 F.2d 1224, 1231 (2d Cir. 1972). The informant's behavior at his meeting with Agent Santacroce on January 18 does not detract from this finding. It is not particularly surprising that in meeting a federal law enforcement officer to negotiate the sale of stolen bonds, the informant was abundantly cautious, even to the point of being armed. The fact that this information was not presented to Judge Ewing does not diminish the validity of his determination that there was probable cause to believe that the stolen bonds were located at the defendant's residence at 172 Tower Avenue.

It is manifest that seizure of the other stolen bonds upon execution of the search warrant at 172 Tower Avenue provided probable cause to arrest the defendant. Upon his arrest, the defendant was advised of his constitutional rights by Agent McCarthy. There is nothing in the record to suggest that the defendant's statements subsequent to his arrest were not voluntarily given.

Accordingly, the motion to suppress is denied.

SO ORDERED.

Dated at Hartford, Connecticut, this 2nd day of January, 1974.

.....  
M. Joseph Blumenfeld  
Chief Judge

## FOOTNOTES

1/ The Assistant United States Attorney stated at the hearing on this motion that the government will not seek to introduce at trial anything not listed in the search warrant. Since the warrant authorizes a search only for a number of United States Savings Bonds whose serial numbers are listed therein, defendant's motion to suppress other tangible evidence seized during the search need not be considered.

2/ The affidavit accompanying the application for the search warrant consists of the following:

- "1. That I, Tpr, Richard A. Raposa, am a member of the Conn. State Police and have been for the past 3 years and am presently assigned to Troop H, Htfd.
2. That I, John J. McCarthy, am a member of the U.S. Secret Service and have been for the past 10 years and am presently assigned to the New Haven Field Office.
3. That on Dec. 6, 1972, at 1500 hours, a complaint was received at Troop H in Htfd., from Mr. Morin of the State Comptroller's Office, 20 Trinity St., in Htfd. that several U.S. Savings Bonds were missing.
4. That subsequent investigation revealed that 178 \$100.00 U.S. Savings Bonds value \$13,350.00, maturity value \$17,800.00 and 26 \$50.00 U.S. Savings Bonds value \$975.00, maturity value \$1,300.00 were missing. See list attached.
5. That included in the U.S. Savings Bonds missing was a series of 17 \$100.00 U.S. Savings Bonds Serial Number C1010008334E through C1010008350E.
6. That on this date information was gained through a government informant that the above mentioned bonds were located at the above mentioned address of 172 Tower Ave., Htfd.
7. That information had been received from this informant in the past, which had proved to be reliable and factual.
8. That on Wed., Jan. 17, 1973, the informant went to 172 Tower Ave., Htfd., address where he observed said bonds. Subsequently, said informant took twenty (20) of said bonds into his possession and turned them over to Secret Service Agent John J. McCarthy.
9. That based on the above information probable cause does exist to believe that the aforementioned bonds are at the above address.
10. That these twenty bonds were among those listed as taken from the Comptroller's Office."

3/ The Supreme Court has recognized that such tangible corroborative evidence may be of great significance in establishing probable cause in a particular situation. See *Whitely v. Warden of Wyoming State Penitentiary*, *supra*, 401 U.S. at 567.

4/ In both *Suarez* and *Dunnings*, additional information was present in the affidavit, but this information — that the defendant has entered a particular building on a number of occasions, in *Suarez*, and that the defendant has been out of town recently, in *Dunnings* — was in itself innocent-appearing and was clearly not indicative of probable cause. *Whitely v. Warden of Wyoming State Penitentiary*, *supra*, 401 U.S. at 567.



**EXCERPTS FROM TESTIMONY AT  
HEARING ON DEFENDANT'S MOTION TO SUPPRESS  
Testimony of Agent John J. McCarthy:**

Q You did. And after you advised him of his rights, did he say anything to you concerning the bonds?

A Yes, sir.

Q What did he say?

A He said that if all the bonds weren't there, that he would see that I had the rest of the bonds within a week.

(Tr. p. 10)

\* \* \* \* \*

**CROSS-EXAMINATION BY MR. DENNIS:**

Q Mr. McCarthy, you were one of the police officers that applied to Judge Ewing for a search warrant, is that correct?

A Yes, sir.

Q And that warrant sought permission to search the premises of Walter Frederick?

A That's correct.

Q And these premises are known as 172 Tower Avenue in Hartford?

A Right.

Q On what day was it, if you recall, that you applied to Judge Ewing for the search warrant?

A January 19, 1973.

Q And that was the same day Frederick was arrested?

A That's correct.

Q What time did you apply for the warrant?

A I would say roughly seven p.m.

Q Your affidavit was signed at Wethersfield, Connecticut. Would this be the home of Judge Ewing?

A Yes, sir.

Q So you went to Judge Ewing's home at approximately seven p.m. to apply for this search warrant?

A Yes, sir. It was six or seven.

THE COURT: What?

THE WITNESS: It was six or seven.

THE COURT: I see. So you mean the affidavit was made up and signed at the Judge's house?

THE WITNESS: That's correct.

Q (By Mr. Dennis) Now, in your affidavit, you stated that on a particular date, you obtained information through a Government informant that certain bonds were located at 172 Tower Avenue, is that correct?

A On the affidavit?

Q On the affidavit.

A I'd like to see the affidavit. I can't recall what exactly it says.

THE COURT: Here you are.

THE WITNESS: Thank you.

THE COURT: I think he is referring to —

Q Paragraph 6.

A Paragraph 6? That's correct.

Q You start Paragraph 6 off with the statement: "On this date". Could you tell us exactly what date it was that you did receive the information from the informant?

A I received the information from the informant on January 19th, but the FBI had received other information from the informant on January 18.

Q All right. But when you made this affidavit before Judge Ewing, you were talking about information that you had received on January 19th, is that correct?

A In addition to information the FBI had received on January 18th.

Q All right. But the information that you were talking about was the information you had received on January 19th, is that correct?

A In Paragraph 6, right.

Q And the Government informant that is referred to in Paragraph 6 and throughout the affidavit is, in fact, one of the Defendants in this case, isn't that correct?

\* \* \* \* \*

THE COURT: The informant — was there an answer to it?

THE WITNESS: No, sir, I didn't answer.

A That's correct.

THE COURT: The informant is one of the co-Defendants?

THE WITNESS: That's correct.

BY MR. DENNIS:

Q And prior to January 19, had you personally received any information from this informant?

A No, sir.

Q Had you ever known or met with this informant on any occasion prior to January 19th?

A No, sir.

Tr. pp. 10-14

\* \* \* \* \*

Q Did Agent Santacroce provide you with any other information concerning his meeting with the informant?

A If you could be more specific, because I had, you know, sort of a lengthy conversation with Agent Santacroce. If you could specify what you're interested in, maybe I could —

Q Was there talk of this informant offering to sell a million dollars worth of these bonds to the Government?

A Yes, sir.

Q And could you give us some of the details on this particular discussion?

A Well, on the 18th, when Santacroce met with this informant, he said that he had a million dollars worth of bonds he wanted to sell to the Government for \$1,800. He didn't specify that they were going to be the same as these bonds. He did say he had a million dollars worth of bonds.

Q Did he have a price?

A \$1,800.

Q \$1,800. He was going to sell a million dollars worth of bonds to the Government for \$1,800?

A That's correct.

(Tr. pp. 23-24)

\* \* \* \* \*

Q Did it at some point come to your attention that, in fact, the informant did not have a million dollars worth of bonds to sell?

A Yes.

Q And when were you first advised that he did not have a million dollars worth of bonds?

A When Agent Santacroce tried to set up the meeting, when Santacroce finished talking to him on the telephone, he said that — the informant was hedging now and that actually there wasn't a million dollars available.

Q Was that Agent Santacroce's term, that the informant was hedging?

A I don't recall.



Q But, in fact, he did not have a million dollars worth of bonds, isn't that correct?

A That's correct.

(Tr. pp. 31-32)

\* \* \* \* \*

Q (By Mr. Dennis) So at the point in time you first met the informant, you know that he had already changed his story once, isn't that correct?

A This is the way I recall it. I can't be absolutely sure.

Q You were also aware, were you not, of the informant's prior record, prior to this meeting?

A Prior record?

Q Prior criminal record.

A I don't recall discussing that. I was under the impression he had been arrested before, but I don't know — I don't recall.

Q Prior to the time you made affidavit to Judge Ewing that this informant was reliable, did you make any inquiry at all as to his prior criminal record?

A I wasn't interested in his prior criminal record.

THE COURT: Well, the question is did you make any inquiry about it.

THE WITNESS: At this time, all I can state is I recall that — I was under the impression that the man had been arrested before, but I don't recall how I came into this information.

THE COURT: All right.

Q (By Mr. Dennis) And you didn't see fit to make any further inquiry as to the reasons for these prior arrests?

A The man was —

THE COURT: Did you or didn't you?

THE WITNESS: I don't recall, Judge.

THE COURT: All right.

Q (By Mr. Dennis) But in any event, when you made affidavit to Judge Ewing that this was a reliable informant, you did not make the fact known that you had some idea that he had a prior criminal record?

A No, sir, I didn't make that known to the Judge.

Q Did Agent Santacrose inform you of any bizarre behavior on the part of the informant on the night of the 18th?

A He said that the man was armed.



THE COURT: Was what?

THE WITNESS: He was armed. On the night of the 18th, that was; not the 19th.

Q That's correct. That's the night that Agent Santacroce and Agent Ludwig first met with the informant?

A That's correct. That was the 18th and not the 19th.

Q On the 18th?

A Yes. On the night that I met him, I don't know if he was armed or not.

Q Did Agent Santacroce inform you as to how the informant was armed?

A He said he had a couple of guns and a butcher knife.

Q Did Agent Santacroce advise you of any bizarre behavior other than the fact that he was armed with two pistols and a butcher knife?

A No, sir.

Q Did he indicate that the informant was acting irrationally at all?

A No.

Q Did he advise you that the informant was acting belligerently?

A Yes, he wasn't about to give up the bonds that night, if that's what you mean.

Q All right. So Agent Santacroce had informed you that at the time he first met the informant, that this individual was acting belligerently and was armed with two pistols and a butcher knife?

A That's correct.

Q Did you make this fact known to Judge Ewing?

A I didn't think it was significant.

(Tr. pp. 33-35)

\* \* \* \* \*

Q You state in Paragraph 8 of your affidavit to Judge Ewing that the informant went to 172 Tower Avenue where he observed the bonds. Is that correct?

A If that's what it says in the affidavit. Here again, I don't have it in front of me.

Q All right. Is this something the informant told you or did you have your surveillance on this informant when he went to Tower Avenue?

A As best as I can recall, the informant said that he saw the remainder of the bonds at 172 Tower Avenue on January 17, 1973. He said that he saw them there.

(Tr. p. 37)

\* \* \* \* \*

Q And with regard to the allegations in Paragraph 7, you had never received information from this informant in the past, is that correct?

A That's correct.

(Tr. p. 38)

\* \* \* \* \*

**Testimony of Richard A. Raposa:**

Q Trooper Raposa, showing you Government Exhibit 1, could you identify that for us, please?

A Yes, sir. It's a search warrant affidavit or the search warrant that I assisted in drawing up for Sonny Frederick's house.

Q Did you also sign that affidavit?

A Yes, I did.

Q In Paragraph 6 of your affidavit, you state that information had been obtained through a Government informant. Did you personally obtain this information?

A No, I did not.

Q Do you know who did obtain the information?

A Yes. Special Agent McCarthy.

Q Without mentioning the name, the informant, in fact, is one of the Defendants in this particular case, is he not?

A Yes, he is.

Q Did you at anytime interview this informant?

A When, prior?

Q Anytime prior to the date of the application for the warrant, which I believe is January 19.

A No. I didn't.

Q You never spoke to this individual at all?

A No, I didn't.

Q Did you know who the individual was?

A Not other than seeing a mug shot of him.

Q So when you stated to Judge Ewing that, in your information, that information was gained through this informant concerning certain bonds, you had no firsthand knowledge of that information, did you?

- A No, I didn't.
- Q And you, in fact, had never even talked to this individual?
- A No, I didn't.
- Q Did Agent Santacroce mention any bizarre behavior on the part of the informant the prior night?
- A Yes, he did. Something about him being strapped with guns, or something along this line, and possibly inebriated or something.
- Q And possibly what?
- A Inebriated; intoxicated possibly. He acted strange.
- Q He was strapped with guns?
- A Something like this.
- Q Did Agent Santacroce indicate how many guns he had on him?
- A Two, I believe.
- Q Any other weapons?
- A I think he mentioned something about a knife. I'm not too sure.
- Q Did Agent Santacroce describe his behavior at all?
- A Other than the fact that he was strange. Different.
- Q Was that the word?
- A Strange or different, something along this line. Yes, strange of different, I guess.
- Q And possibly inebriated?
- A Possibly.
- Q Were you aware of this informant's prior record at the time you applied for the search warrant?
- A Yes. This is how I got to see the photograph.
- Q You were aware of the fact that he had a prior record?
- A Right.
- Q Did you make that fact known to Judge Ewing?
- A No.
- Q Did you make the fact of his bizarre behavior known to Judge Ewing?
- A No.
- Q Did you make the fact known to Judge Ewing that just the night before you applied for this warrant, that he was acting in a bizarre manner, armed with two pistols and a butcher knife?
- A No.
- Q Did you make the fact known that he had originally stated that there was a million dollars worth of bonds for sale and subsequently retracted that?
- A No.



**Testimony of Special Agent Dewey Santacroce:**

What happened on the phone call was that I had been in our New Haven office throughout the day and was returning to Hartford, and it was quite late at night and we received a call on the radio to call this individual at a certain phone number. We stopped in Rocky Hill and made the phone call. Then we went to his residence. It was before midnight. I don't know exactly what time before midnight.

Q When you first arrived at this individual's residence, what did you observe?

A Well, the house was in darkness, except for one light in a small room. We entered, spoke to this person, and he told us about these particular items that he had.

Q Did you notice anything unusual about his behavior?

A Well, he was very covert, looked out to see if anybody was with us, kept himself in the dark. He was very cautious.

Q Was he, in fact, armed?

A He was armed.

Q How was he armed?

A Well, he had a knife, for one thing. He had a butcher's knife, if I'm not mistaken.

Q Did he have that in his hand?

A At one point, he did.

Q Any other weapons?

A I believe he had a pistol.

Q Just one pistol or more than one?

A I don't recall now whether he had more than one. But I'm pretty sure he had one pistol in his belt.

Q How would you describe the individual's attitude at the time you were talking to him?

A He was belligerent.

Q Belligerent?

A Yes.

Q Was there talk during this interview concerning the sale of a million dollars worth of Government bonds?

A He said he had a million dollars in United States Savings Bonds.

Q Did your subsequent investigation disclose that he did not, in fact, have a million dollars worth of savings bonds?



A He did not have a million dollars in the savings bonds that were stolen. Whether he had a million dollars in U. S. Saving Bonds, I don't know.

Q Did you subsequently bring Agent McCarthy of the Secret Service into this investigation?

A I did, on the following day.

Q Did you relate to Agent McCarthy what had transpired the night before?

A I did.

Q And that included the informant's behavior, his weapons, the fact that he had offered to sell a million dollars worth of bonds?

A Yes.

Q Did you also relate these facts to Trooper Raposa?

A Well, I'm not sure whether I relayed them to Trooper Raposa or not. But whoever handled the investigation at Troop H in Hartford had all the details that I just spoke about.

Q You made those facts that you had available to you known to the Connecticut State Police Department?

A I did.

(Tr. pp. 50-53)

75-1104

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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DOCKET NO. 75-1104

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UNITED STATES OF AMERICA  
APPELLEE

V.

WALTER B. FREDERICK, JR.

and

REUBEN McCRARY

APPELLANTS

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CERTIFICATION OF SERVICE

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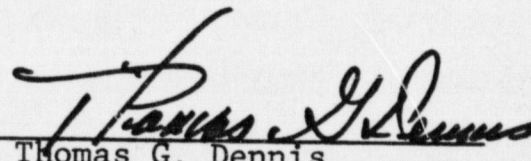
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